

REMARKS

Applicants appreciate the opportunity granted by the U.S. Patent Office for Applicants representative to have a telephonic interview with the Examiner on January 31, 2006.

Claims 1, 3, 6-14, 18, 20, 21 and 23 are pending. Claims 1, 3, 6-14, 18, 20, 21 and 23 are rejected. Claims 1, 8 and 23 are amended.

35 U.S.C. § 112

With respect to the rejection of claim 23 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention, Applicant respectfully submits that the amendment to claim 23 overcomes the rejection thereto. Specifically, Applicants have amended claim 23 to include “wherein the mounting bracket assembly has a lower end” to provide antecedent basis for the term “lower end of said mounting bracket assembly.”

35 U.S.C. §102

Claims 1, 3, 6-9, 11, 13, 14, 20 and 21 were rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 4,641,474 to Cannarsa. This rejection is respectfully traversed in view of the claims as amended, and for the reasons that follow.

Specifically, Applicants have amended independent claim 1 to define that the planar plank-fastening flange portion consists of a free edge on a side opposite said support flange portion. Likewise, claim 8 has been amended to define that the planar plank-securing flange portion consists of a free edge on a side opposite said support flange portion. These features defined in claims 1 and 8 are nowhere described by Cannarsa, or any other reference of record.

Cannarsa fails to teach or even disclose the mounting bracket and mounting bracket assembly as defined in claims 1 and 8. Specifically, Cannarsa discloses teeth connected to the flat segment 14 that is utilized for fastening said fastener to a wallboard. The present invention, however, defines a free edge in this position.

Under 35 U.S.C. § 102, anticipation requires that a single prior art reference disclose each and every element of Applicant's claimed invention. *Akzo N.V. v. U.S. International Trade Commission*, 808 F.2d 1471, 1479 (Fed. Cir. 1986). Since Cannarsa fails to disclose Applicant's invention as defined in the amended claims, the rejection thereto has been overcome and should be withdrawn.

Claims 3, 6, 7, 18, 20, 21 and 23 depend from independent claim 1, and claims 9-14 depend from independent claim 8. These claims are further believed allowable over the references of record for the same reasons set forth above with respect to their parent claims since each sets forth additional elements of Applicant's novel mounting bracket and mounting bracket assembly, respectively.

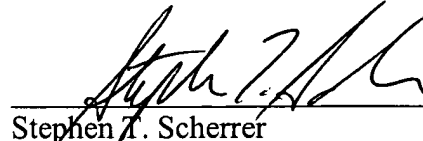
CONCLUSION

In view of the foregoing remarks and amendments, Applicant respectfully submits that all of the claims in the application are in allowable form and that the application is now in condition for allowance. If, however, any outstanding issues remain, Applicant urges the Examiner to

telephone Applicant's agent so that the same may be resolved and the application expedited to issue. Applicant requests the Examiner to indicate all claims as allowable and to pass the application to issue.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Stephen T. Scherrer
Registration No. 45,080

227 West Monroe Street
Chicago, IL 60606-5096
Phone: 312.372.2000
Facsimile: 312.984.7700
Date: March 1, 2006

**Please recognize our Customer No. 1923
as our correspondence address.**